NETTLETON, C.J. & GRIMSHAW, P.J.

FOREST DEPARTMENT v. MICHAEL PAPA NICOLA & ANOTHER

the State forests and dig up (for I interpret " the gathering of shinia," as pulling it up by the roots) shinia even for their personal use. Clearly a close-growing shrub of this kind is of real value in holding moisture and in preventing the washing away of soil by rain. An amendment of the law appears desirable. But that is not the province of this Court. It has to interpret the law as it stands. Section 7 is unfortunately worded. Exceptions from the provisions of a law should not be based upon possible intentions in the minds of people which must be difficult to establish or disprove.

NETTLETON, C.J. & DICKINSON, ACTING P.J. 1925

May 4

[NETTLETON, C.J. AND DICKINSON, ACTING P.J.]

IN THE MATTER OF THE BANKRUPTCY OF THE FIRM N. CH. TAVERNARIS & BROS. CONSISTING OF AVRAAM TAVERNARIS AND MARIA A. FINIEFS,

AND

IN THE MATTER OF THE BANKRUPTCY OF AVRAAM TAVERNARIS AND MARIA TAVERNARIS PERSONALLY, JOINTLY, AND SEVERALLY.

INTERPRETATION OF ORDER OF THE SUPREME COURT—" APPEAL ALLOWED "—A FORMAL ORDER IN " COMMON FORM " LIMITED BY ACTUAL ORDER MADE BY COURT.

The facts are disclosed in the decision of the Court.

For Applicant (Maria A. Finiefs) *N. Paschalis.*

Syndics and Juge Commissaire in person.

Paschalis : As the appeal was allowed (*vide* Supreme Court formal judgment) a new adjudication in Bankruptcy must be made against my client.

Judgment : The Court below, on the 18th July, 1924, declared appellant to be a partner in a certain firm, that that firm was bankrupt, and that she was jointly and severally and personally bankrupt with her partner Avraam Tavernaris, *i.e.*, for the partnership debts.

Appellant was represented by counsel and did not oppose the order. On appeal against her being declared jointly and severally and personally bankrupt, after a submission that this was not a collective partnership, and that there was no partnership under which the appellant could be made responsible for the debt of the partnership, this Court, on a statement by the counsel who had represented her in the Court below that he had not been sufficiently instructed and had consented to the order under a misapprehension as to the extent of her liability under the bankruptcy (he had suggested her association with the affairs of the partnership was of a limited character), allowed the question of the extent of her liability for the debts of the partnership, *i.e.*, as to whether it was unlimited or not, to be referred back to the Court below. Appellant's estate remained in the hands of the syndics by order of this Court. The declaration of bankruptcy remained untouched.

The sole question referred to the Court below was the extent of her liability under it. The Court below has now found that appellant's liability is unlimited, in effect that she is a member of a collectif partnership and therefore responsible for the debts of the partnership to an unlimited extent.

There is no substance in Mr. Paschalis' contention that a fresh adjudication in bankruptcy is necessary. The appellant has been declared bankrupt already, and the order so declaring her stands.

It is hardly necessary further to observe that when a collectif partnership such as this is now declared to be is adjudicated bankrupt, bankruptcy proceedings *ipso facto* affect its members individually as well as collectively, because each member is personally liable.

The sole question for the Court to consider is whether the finding of the Court below, dated the 21st March, 1925, and now appealed from as to the extent of the applicant's liability from the debts of the partnership, shall stand.

We would further observe that the words " Doth allow this appeal," on which great stress was laid by Mr. Paschalis, in the order of this Court of the 13th February, 1925, are purely common form and are used commonly in drawing up orders on appeal in this Court by way of recital whatever the order may be, and must be read as entirely qualified by and limited in their application to the actual order made. In the present case it merely directed, as already indicated, an enquiry as to the extent of the liability of a member of a bankrupt partnership for the debts of the partnership.